

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

JAMES R. NEKVASIL, JR.,)	
Reg. No. 04317-027,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No.
)	2:20cv274-ECM
)	
FEDERAL BUREAU OF PRISONS,)	
)	
Defendant.)	

ORDER

Plaintiff, a federal inmate at Montgomery Federal Prison Camp (“Montgomery FPC”), filed this *Bivens*¹ action challenging the constitutionality of actions taken by Federal Bureau of Prisons (“BOP”) personnel in implementing the directives set forth by the Attorney General of the United States regarding how to evaluate inmates for possible release under the Coronavirus Aid, Relief, and Economic Security Act of 2020 (“CARES Act”). However, Plaintiff did not file the \$350 filing fee and \$50 administrative fee applicable when a plaintiff is not proceeding *in forma pauperis*, nor did he submit an original affidavit to support a motion for leave to proceed *in forma pauperis* accompanied by the required

¹ *Bivens v. Six Unknown Named Agents*, 403 U.S. 388 (1971).

documentation from the inmate account clerk. The pleadings filed by Plaintiff fail to provide the court with the information necessary for a determination of whether he should be allowed to proceed without prepayment of a filing fee in this cause of action. In addition, absent either prepayment of the requisite fees or the granting of *in forma pauperis* status, this case cannot continue before this court.

Accordingly, it is

ORDERED that on or before **May 13, 2020**, Plaintiff shall file either the \$400.00 filing/administrative fees or an appropriate affidavit in support of a motion for leave to proceed *in forma pauperis* accompanied by relevant financial information from the inmate account clerk at Montgomery FPC.²

To aid Plaintiff in complying with this order, the CLERK is DIRECTED to furnish him with a copy of the form affidavit used by persons seeking to proceed *in forma pauperis* before this court. Plaintiff is advised that it is his responsibility to seek the necessary financial information from the inmate account clerk. Finally, Plaintiff is cautioned that if he fails to comply with this order, the Magistrate Judge will recommend that this case be dismissed.

It is further

² Plaintiff's motion for *in forma pauperis* status should be accompanied by a prison account statement from the account clerk at FPC Montgomery showing the average monthly balance in Plaintiff's prison account for the six-month period immediately preceding the filing of this complaint and the average monthly deposits to his account during the past six months.

ORDERED that Plaintiff shall immediately inform the court and the defendant or, if counsel has appeared on behalf of the defendant, counsel of record of any change in his address. Failure to provide a correct address to this court within ten (10) days following any change of address will result in the dismissal of this action.

DONE this 28th day of April, 2020.

/s/ Wallace Capel, Jr.
WALLACE CAPEL, JR.
CHIEF UNITED STATES MAGISTRATE JUDGE